

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

IN THE MATTER OF:

**Columbian Chemicals Company, Inc.
Aditya Birla**

370 Columbian Chemicals Lane
Centerville, Louisiana 70522

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) **NOTICE OF VIOLATION**
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NOTICE AND FINDING OF VIOLATION

This Notice and Finding of Violation (Notice) is issued to Columbian Chemicals Company, Inc. / Aditya Birla (Columbian or Respondent) for violations of the Clean Air Act (CAA or the Act), 42 U.S.C. §§ 7401 *et seq.*, at its carbon black manufacturing plant located at 370 Columbian Chemicals Lane, Centerville, Louisiana (Facility).

This Notice is issued pursuant to section 113(a)(1) of the CAA, 42 U.S.C. § 7413(a)(1). Section 113(a) of the CAA requires the Administrator of the United States Environmental Protection Agency (EPA) to notify any person in violation of a SIP or permit requirement. Also included are findings of violations of the federal regulations. The authority to issue this Notice has been delegated to the Assistant Administrator of the Office of Compliance and Enforcement Assurance, and re-delegated to the Director, Air Enforcement Division.

I. STATUTORY AND REGULATORY BACKGROUND

1. The Clean Air Act is designed to protect and enhance the quality of the nation's air resources so as to promote the public health and welfare and the productive capacity of its population. Section 101(b)(1) of the Act, 42 U.S.C. § 7401(b)(1).

A. The National Ambient Air Quality Standards

2. Section 108(a) of the Act, 42 U.S.C. § 7408(a), requires the Administrator of EPA to identify and prepare air quality criteria for each air pollutant, emissions of which may endanger public health or welfare, and the presence of which results from numerous or diverse mobile or stationary sources. For each such "criteria" pollutant, Section 109 of the Act, 42 U.S.C. § 7409, requires EPA to promulgate national ambient air quality standards (NAAQS) requisite to protect the public health and welfare.
3. Pursuant to Sections 108 and 109 of the Act, 42 U.S.C. §§ 7408 and 7409, EPA has identified particulate matter (PM), sulfur dioxide (SO₂) and nitrogen dioxide (NO₂), among others, as criteria pollutants, and has promulgated NAAQS for these pollutants. Certain precursors to ozone formation, such as volatile organic compounds (VOC) and

oxides of nitrogen (NO_x), are regulated as part of the air quality standards for ozone itself. 40 C.F.R. §§ 50.6 to 50.11.

4. Under Section 107(d) of the Act, 42 U.S.C. § 7407(d), each state is required to designate those areas within its boundaries where the air quality either meets or exceeds the NAAQS for each criteria pollutant, or where the air quality cannot be classified due to insufficient data. An area that meets the NAAQS for a particular pollutant is termed an “attainment” area with respect to such pollutant. An area that does not meet the NAAQS for a particular pollutant is termed a “nonattainment” area with respect to such pollutant.
5. An area that cannot be classified as either “attainment” or “nonattainment” with respect to a particular pollutant due to insufficient data is termed “unclassifiable” with respect to such pollutant.
6. At all times relevant to this NOV, St. Mary’s Parish, the area in which the Facility is located, has been classified as either attainment or unclassifiable for all criteria pollutants.
7. Section 110(a) of the Act, 42 U.S.C. § 7410(a), requires each state to adopt and submit to the Administrator of EPA, a plan which provides for implementation, maintenance, and enforcement, for each promulgated NAAQS, in each air quality control region (or portion thereof). Each such plan must include enforceable emission limitations and other control measures, and regulation of the modification and construction of any stationary source within the areas covered by the plan as necessary to assure that NAAQS are achieved.
8. Section 172 of the Act, 42 U.S.C. § 7502, requires each state containing an area designated as nonattainment by the Administrator of EPA to submit a plan or plan revision that provides for the implementation of all reasonably available control measures as expeditiously as practicable, and provides for attainment of the national primary ambient air quality standards. Section 172(c)(1), 42 U.S.C. § 7502(c)(1).

B. Title V Requirements

9. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), provides that no source may operate without a Title V permit after the effective date of any permit program approved or promulgated under Title V of the Act. EPA first promulgated regulations governing state operating permit programs on July 21, 1992. *See* 57 Fed. Reg. 32295; 40 C.F.R. Part 70.
10. Section 503 of the Act, 42 U.S.C. § 7661b, sets forth the requirement to submit a timely, accurate, and complete application for a permit, including information required to be submitted with the application.
11. Section 504(a) of the Act, 42 U.S.C. § 7661c(a), requires that each Title V permit include enforceable emission limitations and standards, a schedule of compliance, and other conditions necessary to assure compliance with applicable requirements, including those contained in a state implementation plan. 42 U.S.C. § 7661c(a).
12. 40 C.F.R. § 70.1(b) provides that: “All sources subject to these regulations shall have a permit to operate that assures compliance by the source with all applicable requirements.” *See also*, LAC 33:III.507.

13. 40 C.F.R. § 70.2 defines “applicable requirement” to include “(1) Any standard or other requirement provided for in the applicable implementation plan approved or promulgated by EPA through rulemaking under Title I of the Act that implements the relevant requirements of the Act, including revisions to that plan promulgated in part 52 of this chapter . . .” *See also*, LAC 33:III.507.A.
14. 40 C.F.R. § 70.7(b) provides that no source subject to 40 C.F.R. Part 70 requirements may operate without a permit as specified in the Act. *See also*, LAC 33:III.507.B.
15. 40 C.F.R. § 70.5(a) and (c) require timely and complete permit applications for Title V permits with required information that must be submitted and 40 C.F.R. § 70.6 specifies required permit content. *See also*, LAC 33:III.507.C.
16. 40 C.F.R. § 70.5(b) provides that: “Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant shall provide additional information as necessary to address any requirements that become applicable to the source after the date it filed a complete application but prior to release of a draft permit.” *See also*, LAC 33:III.A-D.
17. EPA granted full approval of the Louisiana Title V program on October 12, 1995. *See also*, 60 Fed. Reg. 47296 (September 12, 1995).
18. The Louisiana regulations governing the Title V permitting program are codified at LAC 33:III.507, and are federally enforceable pursuant to Section 113(a)(3) of the Act.
19. LAC 33:III.507.C states that no Part 70 source may operate after the time that it is required to file a timely application with the Louisiana Department of Environmental Quality (LDEQ), except in compliance with an LDEQ-issued permit.
20. LAC 33:III.517.A requires sources to submit timely and complete permit applications for Title V permits with required information and LAC 33:III.507.A specifies required permit content.
21. LAC 33:III.507.E provides that applications for Title V permit renewal shall be subject to the same procedural requirements, including those for public participation, affected State comment, and EPA review, that apply to initial permit issuance.
22. LAC 33:III.507.C requires sources to submit additional information to LDEQ to supplement or correct an application promptly after becoming aware of the need for additional or corrected information.

23. On September 12, 2013, the Louisiana Department of Environmental Quality (LDEQ) issued a Title V (Part 70) Operating Permit to Columbian Chemicals Company – North Bend Plant (Permit No. 2660-00005-V7). The Part 70 Permit requires the following:
- A. EQT 0018 Dryer Stack - Condition 71 (page 7 of 29): “Permittee shall ensure compliance with the opacity and particulate emission limits of this permit by performing visual inspections on a weekly basis. If visual emissions are detected, then, within three (3) working days, the permittee shall conduct a six-minute opacity reading in accordance with EPA Reference Method 9. Records of visible emission checks shall include emission point ID, date visual check was performed, a record if visible emissions were detected, and a record of any Method 9 testing conducted and the results of any Method 9 test. These records shall be kept on site and available for inspection by the Office of Environmental Compliance Inspection Division.”
 - B. EQT 0033 Main Combustion Stack – Condition 139 (page 14 of 29): “Maximum Allowable Emission Rates: PM/PM10: 15.40 lbs/hr.”
 - C. EQT 0033 Main Combustion Stack – Condition 137 (page 14 of 29): “Ensure compliance with the opacity and particulate emission limits of this permit by performing visual inspections on a weekly basis. If visual emissions are detected, then, within three (3) working days, the permittee shall conduct a six-minute opacity reading in accordance with EPA Reference Method 9. Records of visible emission checks shall include emission point ID, date visual check was performed, a record if visible emissions were detected, and a record of any Method 9 testing conducted and the results of any Method 9 test. These records shall be kept on site and available for inspection by the Office of Environmental Compliance Inspection Division.”
 - D. EQT 0034 Dryer stack – Condition 164 (page 16 of 29): “Opacity \leq 20 percent, except during the cleaning of a fire box or building of a new fire, soot blowing or lancing, charging of an incinerator, equipment changes, ash removal or rapping of precipitators, which may have an opacity in excess of 20 percent for not more than one six-minute period in any 60 consecutive minutes.”
 - E. EQT 0034 Dryer Stack – Condition 176 (page 17 of 29): “Ensure compliance with the opacity and particulate emission limits of this permit by performing visual inspections on a weekly basis. If visual emissions are detected, then, within three (3) working days, the permittee shall conduct a six-minute opacity reading in accordance with EPA Reference Method 9. Records of visible emission checks shall include emission point ID, date visual check was performed, a record if visible emissions were detected, and a record of any Method 9 testing conducted and the results of any Method 9 test. These records shall be kept on site and available for inspection by the Office of Environmental Compliance Inspection Division.”

C. Louisiana SIP Requirements

24. LAC 33:III.1101.B of the Louisiana SIP states that: "The emission of smoke from any combustion unit (other than a flare, as described in LAC 33:III.1105 below) or from any type of burning in a combustion unit (other than a flare), including the incineration of industrial, commercial, institutional and municipal wastes, shall be controlled so that the shade or appearance of the emission is not darker than 20 percent average opacity as to obscure vision to a degree equivalent to the above (see Table 4) except that emitted during the cleaning of a fire box or building of a new fire, soot blowing or lancing, charging of an incinerator, equipment changes, ash removal and rapping of precipitators which may have an opacity in excess of 20 percent for not more than one six minute period in any 60 consecutive minutes."
25. LAC 33:III.507.H.1.a of the Louisiana SIP states that: "Each permit issued to a Part 70 source shall include the following elements with regard to compliance: (1) compliance certification, testing, monitoring, reporting, and recordkeeping requirements sufficient to assure compliance with the terms and conditions of the permit as required by 40 CFR 70.6(a)(3), including: (a) where an applicable requirement does not require periodic testing or instrumental or non-instrumental monitoring (which may consist of recordkeeping designed to serve as monitoring), periodic monitoring sufficient to yield reliable data from the relevant time period that are representative of the source's compliance with the permit, as reported pursuant to 40 CFR 70.6(a)(3)(iii). Such monitoring requirements shall assure use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable requirement. Recordkeeping provisions may be sufficient to meet the requirements of this Subparagraph."

II. FACTUAL BACKGROUND

A. General

26. Columbian owns and operates the Facility.
27. Respondent is a "person" within the meaning of Sections 113(a) and 502 of the Act, 42 U.S.C. §§ 7413(a) and 7661a, and as defined in section 302(e) of the Act, 42 U.S.C. § 7602(e).
28. Respondent operates three carbon black units for the manufacture of tread grades (Rubber Units RU1, RU2, and RU3), and five specialty grade units (Specialty Units S1A, S1B, S2A, S2B, and S2C) at the Facility. Respondent partially combusts and thermally decomposes a heavy oil feed in a low oxygen reactor under controlled conditions, thus producing solid carbon particles which are recovered as the carbon black product. The carbon black is then dried, pelletized and packaged.
29. The Facility meets the definition of a "major stationary source" in 40 C.F.R. § 52.21(b)(1)(i)(a) because it is a carbon black plant that has the potential to emit in excess of 100 tons per year of the following regulated pollutants: of NO_x, SO₂,

PM, VOC, CO, H₂S, and TRS.

30. St. Mary Parish is designated as either attainment or unclassifiable for all criteria pollutants for all relevant time periods of this Notice. *See*, 40 C.F.R. § 81.319.
31. The Facility currently operates under a Title V Permit (No. 2660-00005-V7) that was issued by LDEQ on September 12, 2013. Previously, the Facility operated under the following Title V Permits issued by LDEQ: 2660-00005-V6 (April 26, 2013), 2660-00005-V5 (March 9, 2011), 2660-00005-V4 (October 28, 2008), 2660-00005-V3 (July 11, 2005), 2660-00005-V2 (January 21, 2003), 2660-00005-V1 (May 7, 2001), and 2660-00005-V0 (January 21, 1998).
32. EPA has sent Respondent information requests pursuant to Section 114 of the Act, 42 U.S.C. § 7414 on October 29, 2010, October 2, 2014, and November 9, 2016. During an inspection of the Facility on November 17, 2016, the EPA also required Respondent to submit specific information regarding its carbon black manufacturing facilities.
33. On March 3, 2015 and March 4, 2015, Columbian conducted a stack test in accordance with EPA Test Methods 5, 201 and 202 the south dryer stack (EQT018) at the Facility. Stack test results showed a PM/PM₁₀ emission rate of 8.04 lb/hr.
34. On February 26, 2015, Columbian conducted a stack test in accordance with EPA Test Methods 5, 201 and 202 the north dryer stack (EQT034) at the Facility. Stack test results showed a PM/PM₁₀ emission rate of 11.12 lb/hr.
35. EPA continues to review the information provided by Columbian in response to the aforementioned information requests.

B. EPA Inspection

36. On November 17, 2016, three EPA inspectors, Mr. Christopher Williams, Mr. Emad Shatin, and Mr. Ethan Chatfield, accompanied by Mr. Yanfu Zhao of the Louisiana Department of Environmental Quality, conducted an inspection of the Facility to assess compliance with the Act.
37. Visible emissions evaluations were conducted in accordance with EPA Reference Method 9 and EPA Reference Method Alt-082 by EPA on November 17, 2016, at the north dryer stack (EQT-0034) at the Facility. Recorded opacity was in excess of Respondent's permitted opacity limit of 20% on a six-minute basis for five six-minute periods from approximately 2:56 pm to 3:26 pm. This excess emissions period appeared to continue prior to and after EPA's observation period above, as noted during EPA's CAA inspection.
38. EPA noted during the observations that Respondent did not conduct Method 9 readings during the period from approximately 2:56 pm to 3:26 pm on November 17, 2016.

39. During the November 17, 2016 on-site inspection, EPA reviewed Method 9 records that were maintained pursuant to the requirements of the Facility's Title V permit with Columbian representatives. Upon review of the records, the government inspectors observed that over the period of January 1, 2011 to November 1, 2016, there was only a single record in 2012 in which Columbian conducted a Reference Method 9 reading. Columbian staff verbally confirmed this conclusion during the inspection.

III. VIOLATIONS

40. Upon review of the information provided by Columbian and from data collected during the EPA inspection performed on November 17, 2016, EPA has concluded that Respondent violated the provisions of the Act and LAC described in the following paragraphs of this section III at the Facility.
41. On November 17, 2016, Respondent violated the opacity limit in the Louisiana SIP of no more than 20% opacity at the north dryer stack (EQT-0034) for five six-minute periods from approximately 2:56 pm to 3:26 pm. *See* LAC 33: III.1101.B.
42. On November 17, 2016, Respondent violated the opacity limit in its Title V operating permit (No. 2660-00005-V7) of less than or equal to 20% opacity at the north dryer stack (EQT-0034) for five six-minute periods from approximately 2:56 pm to 3:26 pm. *See* Permit 2660-00005-V7 (issued 9-12-2013), page 16, Condition 164.
43. On and/or prior to November 17, 2016, on one or more occasions, Respondent violated the requirements of its Title V permit to, conduct opacity readings in accordance with EPA Reference Method 9 if visual emissions are detected and violated the requirement to keep the associated, required records. *See* Permit 2660-00005-V7 (issued 9-12-2013), pages 7, 14, and 16, Conditions 71, 137, and 176.
44. Since at least February 26, 2015, Respondent has violated and continues to violate its maximum allowable emission rate for PM/PM₁₀ emissions of 4.91 pounds per hour at the north dryer stack (EQT-0034). *See* Permit 2660-00005-V7 (issued 9-12-2013), page 18, Specific Requirement 178; *see also*, LAC 33:III. 509.
45. Since at least March 4, 2015, Respondent has violated and continues to violate its maximum allowable emission rate for PM/PM₁₀ emissions of 1.64 pounds per hour at the south dryer stack (EQT-018). *See* Permit 2660-00005-V7 (issued 9-12-2013), page 7, Specific Requirement 73; *see also*, LAC 33:III. 509.
46. Given the above, pursuant to Section 113(e) of the Act, the violations set forth above are presumed to continue each day until Columbian establishes continuous compliance except to the extent that Columbian can prove by a preponderance of the evidence that there were intervening days during which no violations occurred.

IV. ENFORCEMENT AUTHORITY

Section 113(a)(1) of the Act, 42 U.S.C. § 7413(a)(1), provides that at any time after the expiration of 30 days following the date of the issuance of a Notice of Violation, the Administrator may, without regard to the period of violation, issue an order requiring compliance with the requirements of the state implementation plan or permit, issue an administrative penalty

order in accordance with Section 113(d), or bring a civil action in accordance with Section 113(b) for injunctive relief and/or civil penalties.

Section 113(b) of the Act, 42 U.S.C. § 7413(b), authorizes the Administrator to initiate a judicial enforcement action for a permanent or temporary injunction, and/or for a civil penalty of up to \$37,500 per day for each such violation occurring on or after January 13, 2009, and up to \$44,539 per day for each such violation occurring on or after November 2, 2015 pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701, 40 C.F.R. § 19.4, and 74 Fed. Reg. 626 (Jan. 7, 2009) against any person whenever such person has violated, or is in violation of, inter alia, the requirements or prohibitions described in the preceding paragraph.

V. OPPORTUNITY FOR CONFERENCE

Columbian may, upon request, confer with EPA. The conference will enable Columbian to present evidence bearing on the finding of violations, on the nature of the violations, and on any efforts it may have taken or proposes to take to achieve compliance. Columbian has a right to be represented by counsel. A request for a conference must be made within 10 days of receipt of this NOV, and the request for a conference or other inquiries concerning the NOV should be made in writing to:

Kellie Ortega, Attorney-Advisor
US Environmental Protection Agency
Air Enforcement Division
Mail Code 2242A, Room 2111C
1200 Pennsylvania Ave, NW
Washington, DC 20460 mail or 20004 courier (note Room 2111C on courier packages)

If you have any questions, please feel free to call Ms. Ortega at (202) 564-5529.

VI. EFFECTIVE DATE

This NOV shall become effective immediately upon issuance.

Dated: 1/5/2017



Phillip Brooks
Director
Air Enforcement Division